

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

Case No. 09-10032-01-MLB

LAWRENCE M. SIMONS,)

Defendant.)

MEMORANDUM AND ORDER

On April 6, 2009, Defendant appeared for a detention hearing in the above case. The Government appeared through counsel Allen Metzger, Assistant U.S. Attorney. Defendant appeared in person and through counsel E. Jay Greeno.¹ The Pretrial Services Report recommended release of Defendant on numerous conditions. The Government did not oppose Defendant's release, but requested additional conditions of release.

In support of its requests, the Government argued that it had reason to believe that Defendant had not fully reported his assets to the Pretrial Officer. The Government proffered evidence that Defendant was the lessee of a warehouse

¹ Mr. Greeno appeared only for purposes of this hearing and has not yet entered his appearance of record in the case.

located on South West Street in Wichita, Kansas, where more than thirty automobiles such as Corvettes have been observed to be in storage and that these automobiles all appear to have high street values. The Government proffered that the lessor of the warehouse had noted that when Defendant came to the warehouse, he parked several blocks away so as not to be seen at the warehouse, and Defendant had requested that the lessor cover the windows of the warehouse so that no one could see inside. The Government further proffered that during its investigation in this case it had received a long distance telephone call from a family member of Defendant stating that Defendant was hiding fifteen automobiles at a warehouse located on the East Coast. The Government noted that Count I of the Indictment involved alleged conduct concerning transport of a vehicle from Kansas City to Defendant's storage facility, and proffered that this transport was to be done at night so that no one would see the delivery of the vehicle or know about Defendant's storage facility. The Government also proffered that at least one of the automobiles currently owned by Defendant is located in Kansas but is tagged in Montana.

Based upon its proffer, the Government requested that the Court temporarily detain Defendant until he provided a sworn affidavit that identified all of his property so that the Court could accurately assess the amount of the bond to be

required in this case. Finally, the Government requested that the Court prohibit Defendant from disposition of any of his assets.

Defendant objected to any continued detention, but did not object to providing an affidavit concerning his property ownership. Defendant did indicate that he might need to dispose of assets to resolve other court proceedings, and he objected to any blanket order prohibiting him from selling or disposing of any property.

The Court noted that based upon Defendant's interview with Pretrial Services, it appeared that Defendant had a negative net worth, and that the existence of additional substantial assets might have a material bearing on the amount and terms of any bond the Court would require to be posted for Defendant's release.

The Court thereupon entered an order releasing Defendant upon stated conditions of release included in a separate Order for Conditions of Release. One condition was that by April 20, 2009, Defendant was to file with the court, by an *ex parte* sealed filing (not available to the Government), a sworn affidavit setting out all of his assets. Another condition was that, prior to the filing of the required affidavit and further order of the Court, Defendant would be prohibited from selling or disposing of any assets valued at more than \$10,000. After review of the

above affidavit *in camera*, the court will determine whether any modifications of the conditions of release may be necessary and if so, will set a hearing at which both parties can argue about any such modification.

IT IS SO ORDERED.

Dated at Wichita, Kansas, this 6th day of April, 2009.

s/ DONALD W. BOSTWICK
DONALD W. BOSTWICK
United States Magistrate Judge